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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

[Request for Reimbursement of Miscellaneous Expenses]

FILE: B-191662

DATE: March 2, 1981

MATTER OF: Prescott A. Berry - Miscellaneous Expense Allowance

- DIGEST:**
1. Transferred employee who had water line run from supply pipe to ice maker in refrigerator at new duty station may be reimbursed for the cost, including pipe used, under miscellaneous expenses allowance. Drilling hole in wall is not "structural alteration" since it is necessary for connection and proper functioning of refrigerator. Prior decisions to contrary will no longer be followed.
 2. Transferred employee who had gas line connected to and vent pipe run from clothes dryer at new duty station, may be reimbursed for the cost, including pipe used, under miscellaneous expenses allowance. Necessary holes in walls are not "structural alterations" since they are necessary for connection and proper functioning of dryer. Prior decisions to contrary will no longer be followed.
 3. Where transferred employee at new duty station acquires level of telephone service comparable to what he had at old duty station, total installation charges may be reimbursed under miscellaneous expense allowance, even where "jacks" have been installed. Prior decisions to the contrary will no longer be followed.
 4. Holdings allowing reimbursement under miscellaneous expense allowance for cost of connecting ice maker and connecting and venting clothes dryer are substantial departure from prior decisions and will be applied only to cases in which the expense is incurred on or after date of this decision. However, claimant here may be reimbursed in accordance with this decision.

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B-191662

The issues presented here concern what items may be included in the reimbursement of miscellaneous expenses paid to an employee at the time of his transfer. The items specifically raised are the installation of a water line to an ice maker in the refrigerator, the installation of a gas line to and vent from a clothes dryer, and the acquisition of a comparable level of telephone service in the employee's residence at his new duty station. For the reasons set forth below, all of the above items may be included within the reimbursement of miscellaneous expenses. Prior decisions to the contrary will no longer be followed.

Mr. Prescott A. Berry, an employee of the Internal Revenue Service, was transferred to Philadelphia, Pennsylvania. In order to complete the installation of the refrigerator that he had transported from his old duty station, it was necessary to drill a one-fourth inch hole in the floor and run tubing from the water supply pipe to the ice maker in the refrigerator. In order to connect the gas clothes dryer, which was also brought from the old duty station, it was necessary to drill a one-inch hole in the wall, extend an existing gas line for approximately one foot, and run a gas supply line from there to the dryer. It was also necessary to cut a four-inch hole in the outside wall to connect the vent pipe. Additionally, Mr. Berry had a telephone "jack," along with the basic service, installed. He states that the telephone equipment installed merely duplicated the service that existed at his prior duty station. The costs for these installation or connection charges were:

Ice maker	\$25.00
Clothes dryer	85.00
Telephone jack	16.42

On the basis of various decisions of this Office, the agency disallowed Mr. Berry's claim for inclusion of all of the above items in the miscellaneous expense allowance. On the same grounds our Claims Division, in Settlement Certificate Z-2473522, October 5, 1977, sustained that disallowance. Mr. Berry appealed that

B-191662

settlement, but in Matter of Prescott A. Berry, B-191662, December 28, 1978, the disallowance was again sustained. Mr. Berry has requested that the entire matter again be reviewed.

The holding in our decision of December 28, 1978, is based upon paragraph 2-3.1(c)(13) of the Federal Travel Regulations (FPMR 101-7) (May 1973) (FTR), which lists costs which may not be included within the reimbursement for miscellaneous expenses. Subparagraph 13 excludes:

"Costs incurred in connection with structural alterations; remodeling or modernizing of living quarters, garages or other buildings to accommodate privately owned automobiles, appliances or equipment; or the cost of replacing or repairing worn-out or defective appliances, or equipment shipped to the new location."

Mr. Berry contends that the work done to connect and accommodate his dryer and refrigerator was not structural in nature, but was only what was necessary to connect these appliances.

As a result of this appeal, we have reviewed the decision in Mr. Berry's case and our other decisions involving appliance connection fees. We find that these decisions have unnecessarily focused on the exclusionary language of FTR para. 2-3.1c(3) rather than on FTR para. 2-3.1b(1), which lists among the types of costs intended to be reimbursed as part of miscellaneous expenses:

"* * * Fees for disconnecting and connecting appliances, equipment, and utilities involved in relocation and costs of converting appliances for operation on available utilities * * *."

Clearly, there can be a conflict between the two quoted sections. At some point the work involved in installing

B-191662

appliances in a transferred employee's new residence can exceed that normally associated with connection and can become that of structural alteration or remodeling. Exactly when that point may be reached is a factual question.

Although we do not believe that the term "structural alteration" is susceptible to precise definition, we agree with Mr. Berry's view that it was not intended to include a change so minimal as cutting a hole through a wall or other barrier for the purpose of connecting or venting appliances, a purpose clearly within the ambit of the miscellaneous expenses allowance.

Thus, while each case must be individually considered, we have concluded that our decisions in this area have been unnecessarily restrictive in that they tend to relegate the transferred employee to that level of appliance or equipment service already in the residence which he has leased or purchased at his new duty station. Further, a definition which includes drilling or cutting a hole in a wall as a "structural alteration," includes changes that can only be categorized as de minimis. This result is the current rule and is not altogether consistent with the purpose of the miscellaneous expenses allowance which, in part, was intended to reimburse costs the employee incurs in relocating appliances and equipment to his new residence and re-establishing the level of service he had at his old station.

Of course, in achieving a comparable level of appliance service at his new duty station, an employee must work within the confines of the new residence. Installing new utility service in a residence or altering the basic structure of the residence in order to permit use of appliances or other possessions would not come within the cost allowable as miscellaneous expenses under this decision.

As we have indicated the determination is a factual one and should be made by the certifying officer or other appropriate official after a consideration of the circumstances in each case. The emphasis should be on whether the claimed expenses were necessary to connect

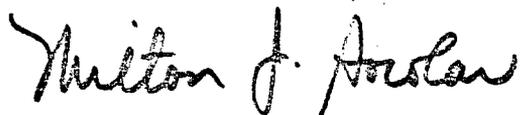
B-191662

the appliances in such a way that they can function properly and legally. The cost of parts, such as pipes or wire, reasonably necessary to connect the appliances to the existing utility service may be reimbursed as connection costs, since the precise sizes and types of such connecting materials are dependent upon the physical layout of each residence.

Although Mr. Berry does not specifically challenge our denial of his claim for installation of telephone service at his new duty station, we find that he has been improperly denied reimbursement for the installation cost of a new telephone "jack." While our decisions on this point have not been consistent, we held in B-170589, November 30, 1970, that the cost of having a telephone "jack" installed in the employee's new residence was reimbursable as a miscellaneous expense where, as in Mr. Berry's case, the employee had similar service at his old duty station. The result in B-170589 is consistent with the purpose of FTR para. 2-3.1b(1) as discussed above. Therefore, our prior decision disallowing Mr. Berry's claim in the amount of \$16.42 is overruled and he may be reimbursed for that amount. Decisions to the contrary will no longer be followed.

Since our holding with respect to the connection costs claimed by Mr. Berry represents a substantial departure from long-held positions which have been justifiably relied upon by certifying and disbursing officers, it will be applied prospectively only--to cases where the expense in question is incurred on or after the date of this decision. However, the holdings will be applied to the specific claims presented by Mr. Berry, and he may be reimbursed for the amounts set out above. See Matter of George W. Lay, 56 Comp. Gen. 561 (1977).

Accordingly, a settlement will be made in the amount found due.



Acting Comptroller General
of the United States